

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re: IVAN L. JEFFERY,
Debtor

:
: **Chapter 7**
: **Case No. 16-15037-ref**
:

**MOTION OF DEBTOR, IVAN L. JEFFERY, FOR SANCTIONS AGAINST
WILTON ARMETALE, INC. A/K/A WAPITA, INC. FOR
VIOLATION OF THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362**

AND NOW COMES the Debtor, Ivan L. Jeffery, by and through his counsel, Charles J. Phillips, Esquire, Eden R. Bucher, Esquire and Leisawitz Heller Abramowitch Phillips, P.C., and in support of his Motion for Sanctions Against Wilton Armetale, Inc. a/k/a WAPITA, Inc. for Violation of the Automatic Stay Pursuant to 11 U.S.C. § 362 hereby represents as follows:

1. On or about July 15, 2016 (the “Petition Date”), the Debtor filed a Petition for relief under Chapter 7 of the United States Bankruptcy Court and was granted an Order for relief thereon.
2. Lynn E. Feldman, Esquire (“Trustee Feldman”) was appointed as Chapter 7 Trustee of the Debtor’s Bankruptcy Estate on July 18, 2016 and continues to serve in that capacity.
3. Prior to May 9, 2016, the Debtor was the sole shareholder of Wilton Armetale, Inc. a/k/a WAPITA, Inc. (“Wilton”).
4. On or about May 9, 2016, the Debtor transferred all of his stock in Wilton to Mega Living, S. de R.L. de C.V. (“Mega Living”), the designee and believed to be wholly-owned subsidiary of Artesanias Hacienda Real S.A. de C.V. (“Artesanias”). A true and correct copy of Barry L. Goldin, Esquire’s letter to Debtor’s counsel directing the registration of the

shares in the name of Mega Living is attached hereto, made a part hereof, and marked as Exhibit “A”.

5. Artesanias is a creditor in Debtor’s Bankruptcy Case.

6. On August 23, 2016, at the request of Trustee Feldman, this Honorable Court fixed the deadline for filing a proof of claim in this Bankruptcy Case as November 25, 2016.

7. No proof of claim was filed by Wilton in this Bankruptcy Case.

8. On December 8, 2016, this Honorable Court granted the Motion of Artesanias for an Order Extending the Time to File a Complaint Determining the Dischargeability of a Debt under 11 U.S.C. §523 and extended the deadline for creditors to file a complaint objecting to the Debtor’s discharge and to determine dischargeability of a debt to January 21, 2017.

9. Wilton did not file a complaint objecting to the Debtor’s discharge or to determine the dischargeability of a debt by the January 21, 2017 deadline established by this Honorable Court.

10. On September 26, 2016, Wilton filed a Petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania to Case No. 16-16779 (“Wilton’s Bankruptcy Case”).

11. David A. Eisenberg, Esquire was appointed as Chapter 7 Trustee of Wilton’s Bankruptcy Estate on September 27, 2016 and continues to serve in that capacity.

12. On September 14, 2018, following Trustee Eisenberg’s abandonment of any claims of the Wilton Bankruptcy Estate against the Debtor, Wilton, by and through its counsel, Barry L. Goldin, Esquire and John R.K. Solt, Esquire, filed a Complaint for Breach of Fiduciary Duty, Constructive Fraud, and Fraud/Fraudulent Concealment in Wilton’s Bankruptcy Case against the Debtor to Adversary No. 18-00212-ref (the “Complaint”).

13. All of the claims in the Complaint are based upon alleged actions taken by the Debtor prior to the Petition Date, and are therefore pre-petition claims against the Debtor which are dischargeable in this Bankruptcy Case.

14. Wilton did not seek nor obtain relief from the automatic stay provisions of 11 U.S.C. § 362 (the “Automatic Stay”) in this Bankruptcy Case prior to filing the Complaint.

15. Wilton’s filing of its Complaint without receiving relief from the Automatic Stay constitutes a “willful violation” of the Automatic Stay as that term is used in 11 U.S.C. § 362(k)(1).

16. The Debtor is entitled to actual damages, including costs and attorney’s fees, and punitive damages against Wilton due to its willful violation of the Automatic Stay.

WHEREFORE, the Debtor, Ivan L. Jeffery, respectfully requests that this Honorable Court:

- A. Award Debtor actual damages, including costs and attorneys’ fees, and punitive damages for Wilton’s willful violation of the Automatic Stay; and
- B. Grant such other and further relief as the Court deems just.

Respectfully submitted,

LEISAWITZ HELLER ABRAMOWITZ PHILLIPS, P.C.

Dated: October 8, 2018

By: /s/ Charles J. Phillips
Charles J. Phillips, Esquire
2755 Century Boulevard
Wyomissing, PA 19610
Phone: 610-372-3500
Fax: 610-372-8671
Attorneys for Debtor, Ivan L. Jeffery